

Paul A. Cardinale
Nevada State Bar Number 8394
Melanie Bernstein Chapman
Nevada State Bar Number 6223
CARDINALE FAYARD, APLC
3800 Watt Ave., Suite 245
Sacramento, CA 95821
Paul.Cardinale@cardinalefayardlaw.com
Melanie.Chapman@cardinalefayardlaw.com

Southern Nevada Office:

**2460 Professional Court, Suite 110
Las Vegas, NV 89128**

Tel: (702) 342-8116

Attorney for Defendants

Zachary Westbrook, John Leonard, and Michel Hall

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

MICHAEL ERWINE,

Plaintiffs,

VS.

UNITED STATES OF AMERICA, CHURCHILL COUNTY, a political subdivision of the State of Nevada; CHURCHILL COUNTY SHERIFF BENJAMIN TROTTER; UNITED STATES OF AMERICA, ZACHARY WESTBROOK, JON LEONARD, MICHEL HALL, GENE BURK; and DOES I through X, inclusive;

Defendants.

CASE NO.: 3:24-cv-00045-MMD-CSD

**DEFENDANTS ZACHARY
WESTBROOK, JOHN LEONARD AND
MICHEL HALL'S NOTICE OF
MOTION AND MOTION FOR LEAVE
TO FILE SUPPLEMENTAL
AUTHORITY IN SUPPORT OF
RENEWED MOTION TO DISMISS**

PLEASE TAKE NOTICE that on a date to be provided by the Court, or as soon thereafter as the matter may be heard in the above-entitled Court, Defendants ZACHARY WESTBROOK, JOHN LEONARD and MICHEL HALL (collectively referred to herein as “Tribal Defendants”) will move this Court pursuant to LR 7-2(g) to submit as supplemental authority the Ninth Circuit’s recent decision in *Maverick Gaming LLC v. United States*, --- F.4th ----, No. 23-35136, 2024 WL 5100829 (9th Cir. Dec. 13, 2024). The Ninth Circuit’s decision is attached as Exhibit A to this motion.

Pursuant to LR 7-2(g), a party may supplement a motion with leave of court. “A court may grant such a request for good cause.” *Alps Property & Cas. Ins. Co. v. Kalicki Collier, LLP*, 526 F. Supp. 3d 805, 812 (D. Nev. Mar. 17, 2021) (Du, C.J.) (quoting *Ra Se. Land Co. v. First Am. Title Ins.*, No. 2:14-cv-1621, 2016 WL 4591740, at *2 (D. Nev. Sept. 2, 2016)). Good cause may exist when “the proffered supplemental authority is precedential, or particularly persuasive or helpful.” *Id.*

Good cause to supplement exists here. *Maverick* bears directly on the “Rule 19” issue presented in Tribal Defendants’ Renewed Motion to Dismiss. Specifically, *Maverick* confirms that a tribe is a required party to a suit that, like this one, “implicate[s] [the tribe’s] sovereign interests in self-governance.” Ex. A at 26, 2024 WL 5100829, at *9 (quoting *Deschutes River All. v. Portland Gen. Elec. Co.*, 1 F.4th 1153, 1163 (9th Cir. 2021)). Moreover, *Maverick* underscores that “the balancing of equitable factors under Rule 19(b) almost always favors dismissal when a tribe cannot be joined due to tribal sovereign immunity.” *Id.* at 37, 2024 WL 5100829, at *14 (quoting *Deschutes*, 1 F.4th at 1163).

Good cause to supplement also exists because Tribal Defendants could not have submitted *Maverick* as part of their initial briefing. Tribal Defendants filed their reply brief in support of their renewed motion on December 12, 2024. *Maverick* was not decided until the following day, December 13, 2024.

For these reasons, Tribal Defendants respectfully request leave to submit the attached *Maverick* decision as supplemental authority.

DATED: December 18, 2024

CARDINALE FAYARD, APLC

By: /s/ Melanie Bernstein Chapman

Paul A. Cardinale, Esq.

Nevada Bar No. 8394

Melanie Bernstein Chapman, Esq.

Nevada Bar No. 6223

*Attorneys for Defendants Zachary Westbrook,
John Leonard, and Michel Hall*

CERTIFICATION OF SERVICE

Pursuant to FRCP 5(b), I certify that I am an employee of Cardinale Fayard, APLC, and that on this 18th day of December 2024, I served a true and correct copy of the foregoing **DEFENDANTS ZACHARY WESTBROOK, JOHN LEONARD AND MICHEL HALL'S NOTICE OF MOTION AND MOTION FOR LEAVE TO FILE SUPPLEMENTAL AUTHORITY IN SUPPORT OF RENEWED MOTION TO DISMISS** on all parties to this action:

Through the CM/ECF System of the United States District Court for the District of Nevada
 By placing same to be deposited for mailing in the United States Mail, in a sealed envelope upon which first class postage was prepared in Sacramento, California.

Luke A. Busby, Esq.
316 California Ave.
Reno, Nevada 89509
luke@lukeandrewbusbyltd.com
Attorney for Plaintiff

Jason Frierson, Esq.
Patrick Rose, Esq.
501 Las Vegas Blvd. So., Suite 1100
Las Vegas, Nevada 89101
Patrick.rose@usdoj.gov

Katherine F. Parks
Thorndal Armstrong, PC
6590 S. McCarran Blvd.
Suite B
Reno, NV 89509
kfp@thorndal.com
*Attorneys for Defendants Churchill County and
Benjamin Trotter*

/s/ *Deseree Rosebrock*

An employee of Cardinale Fayard, APLC